

REMARKS

Status of the Claims

Claims 5, 6 and 27-32 are pending in the present application. Claim 27 has been amended. Claims 28-32 are currently withdrawn from consideration. Support for the recitation of “a pharmaceutically acceptable carrier” in claim 27 can be found in the present specification, *inter alia*, at page 18, line 31. No new matter has been added by way of the above amendment.

Applicants submit that the present Amendment is merely formal in nature, presents no new issues, is in accordance with the Examiner’s instructions, reduces the number of issues under consideration, and places the case in condition for allowance. Entry of the present amendment is proper to place the claims in better form for appeal.

Applicants respectfully request the Examiner to reconsider and withdraw the rejection in view of the following remarks.

Issue under 35 U.S.C. § 112, first paragraph

The Examiner has maintained the rejection of claim 27 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states that the term “therapeutically effective amount” does not have support in that it cannot be administered with the compound alone. The Examiner suggests that addition of a term such as “and a pharmaceutically acceptable carrier.” Applicants have amended claim 27 as proposed by the Examiner. As such, Applicants respectfully submit that claim 27 complies with the written description requirement and request that the rejection be withdrawn.

Request for Rejoinder

Rejoinder is explained in MPEP § 821.04 as follows. Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or process. See MPEP § 806.05(f) or § 806.05(h). The claims to the nonelected invention will be withdrawn

from further consideration under 37 C.F.R. § 1.142. See MPEP § 809.02(c) and § 821 through 821.03. However, if applicant elects claims directed to the product and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

As stated above, Applicants respectfully submit that claim 5 is allowable. As such, Applicants respectfully request the rejoinder of withdrawn claims 28-32, which ultimately depend from claim 5.

Allowed Claims

Applicants acknowledge the indication that claims 5-6 are allowed. All pending claims ultimately depend from claim 5. As such, all pending claims are believed to be directed to allowable subject matter. Therefore, Applicants respectfully submit that this application is now in condition for allowance. An early reconsideration and Notice of Allowance are respectfully requested.


In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 
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